

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting each such subparagraph 2 ems to the right;

(2) by striking "Except as provided" and inserting the following:

"(1) IN GENERAL.—Except as provided";

(3) by striking "If the Secretary takes an action under paragraph (1), (2), or (3)" and inserting the following:

"(2) CONTINUANCE OF ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1)"; and

(4) by adding at the end the following:

"(3) EXCEPTION FOR CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, if the Secretary makes a determination that the failure of a recipient of assistance under this Act to comply substantially with any material provision (as that term is defined by the Secretary) of this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may take an action described in paragraph (1)(C) before conducting a hearing.

"(B) PROCEDURAL REQUIREMENT.—If the Secretary takes an action described in subparagraph (A), the Secretary shall—

"(i) provide notice to the recipient at the time that the Secretary takes that action; and

"(ii) conduct a hearing not later than 60 days after the date on which the Secretary provides notice under clause (i).

"(C) DETERMINATION.—Upon completion of a hearing under this paragraph, the Secretary shall make a determination regarding whether to continue taking the action that is the subject of the hearing, or take another action under this subsection."

SEC. 10. PERFORMANCE AGREEMENT TIME LIMIT.

Section 401(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(b)) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) IN GENERAL.—If the Secretary";

(2) by striking "(1) is not" and inserting the following:

"(A) is not";

(3) by striking "(2) is a result" and inserting the following:

"(B) is a result";

(4) in the flush material following paragraph (1)(B), as redesignated by paragraph (3) of this section—

(A) by adjusting the margin 2 ems to the right; and

(B) by inserting before the period at the end the following: ", if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement"; and

(5) by adding at the end the following:

"(2) PERFORMANCE AGREEMENT.—The period of a performance agreement described in paragraph (1) shall be for 1 year.

"(3) REVIEW.—Upon the termination of a performance agreement entered into under paragraph (1), the Secretary shall review the performance of the recipient that is a party to the agreement.

"(4) EFFECT OF REVIEW.—If, on the basis of a review under paragraph (3), the Secretary determines that the recipient—

"(A) has made a good faith effort to meet the compliance objectives specified in the agreement, the Secretary may enter into an additional performance agreement for the period specified in paragraph (2); and

"(B) has failed to make a good faith effort to meet applicable compliance objectives, the Secretary shall determine the recipient to have failed to comply substantially with this Act, and the recipient shall be subject to an action under subsection (a)."

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents—

(1) by striking the item relating to section 206; and

(2) by striking the item relating to section 209 and inserting the following:

"209. Noncompliance with affordable housing requirement."

(b) CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.—Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is repealed.

(c) TERMINATIONS.—Section 502(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181(a)) is amended by adding at the end the following: "Any housing that is the subject of a contract for tenant-based assistance between the Secretary and an Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter, be considered to be a dwelling unit under section 302(b)(1)."

ORDERS FOR TUESDAY, FEBRUARY 29, 2000

Mr. COVERDELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, February 29. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day,

and the Senate then resume debate on S. 1134, the education savings account bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COVERDELL. Madam President, for the information of all Senators, tomorrow the Senate will resume consideration of the education savings account legislation. It is expected that a special education amendment may be offered tomorrow morning. Other amendments are expected to be offered and debated during tomorrow's session, with votes occurring throughout the day. Due to the pending agreement, the cloture vote for tomorrow has been vitiated. It is hoped that the education savings account bill can be completed by midweek, and therefore Senators are encouraged to work with the bill managers to offer their amendments in a timely manner.

ADJOURNMENT UNTIL TUESDAY, FEBRUARY 29, 2000

Mr. COVERDELL. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:01 p.m., adjourned until Tuesday, February 29, 2000, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 28, 2000:

THE JUDICIARY

NICHOLAS G. GARAUFGIS, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE CHARLES P. SIFTON, RETIRED.

GERARD E. LYNCH, OF NEW YORK, TO BE A UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE JOHN E. SPRIZZO, RETIRED.

DEPARTMENT OF JUSTICE

DANIEL MARCUS, OF MARYLAND, TO BE ASSOCIATE ATTORNEY GENERAL, VICE RAYMOND C. FISHER.